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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/859,703      | 05/17/2001  | Noriyuki Okisu       | 15162/03640         | 4126             |

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EXAMINER

SELBY, GEVELL V

ART UNIT PAPER NUMBER

2615

DATE MAILED: 08/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                               |                              |  |
|------------------------------|-------------------------------|------------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>09/859,703 | Applicant(s)<br>OKISU ET AL. |  |
|                              | Examiner<br>Gevell Selby      | Art Unit<br>2615             |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3, 4, 10 and 11 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5-9 and 12-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Specification*

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1, 2, 5-9, and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Shinichi et al., JP 10-108057, applicant's admitted prior art.**

In regard to claims 1, 5, 8, and 12, Shinichi, JP 10-108057, discloses an image taking apparatus and an image processing apparatus comprising:

an image sensor which takes a plurality of images different in focal distance (see spec: page 3, lines 5-7);

a processor which creates a pan-focus or blur-controlled image focused on each of different photographic objects from said plurality of images taken by said image sensor (see spec: page 3, lines 7-11);

a discriminator which discriminates whether or not it is appropriate to create said pan-focus or blur-controlled image (see spec: page 3, lines 11-13: When distance

measurement smaller than depth of field , it is determined not appropriate to create pan-focus or blur-controlled image);

and a controller which forbids said processor to create said pan-focus or blur-controlled image when said discriminator discriminates that it is not appropriate to create said pan-focus or blur-controlled image (see spec: page 3, lines 11-13: Only one image is taken, so composite image is not made).

In regard to claim 2, Shinichi, JP 10-108057, discloses the image taking apparatus as recited in claim 1, wherein said discriminator discriminates that it is not appropriate to create said pan-focus or blur-controlled image when all photographic objects exist in a depth of field (see spec: page 3, lines 11-13: When distance measurement smaller than depth of field or the distance distribution is small, it is determined not appropriate to create pan focus image.)

In regard to claims 6 and 13, Shinichi, JP 10-108057, discloses an image processing method, comprising:

reading out a plurality of images different in focal distance (see spec: page 3, lines 5-7);

discriminating whether or not it is appropriate to create a pan-focus or blur-controlled image focused on each of different photographic objects (see spec: page 3, lines 7-11);

creating said pan-focus image when it is discriminated that it is appropriate to create said pan-focus or blur-controlled image(see spec: page 3, lines 11-13: When

distance measurement smaller than depth of field , it is determined not appropriate to create pan-focus or blur-controlled image);

and forbidding creating said pan-focus image when it is discriminated that it is not appropriate to create said pan-focus image (see spec: page 3, lines 11-13: Only one image is taken, so composite image is not made).

In regard to claims 7 and 14, Shinichi, JP 10-108057, discloses a recording medium storing a program by which a computer executes the following controls (It is inherent the CPU stores and receives its control program from a storage medium to keep from losing the program when the camera is turned off):

reading out a plurality of images different in focal distance (see spec: page 3, lines 5-7);

discriminating whether or not it is appropriate to create a pan-focus image focused on each of different photographic objects (see spec: page 3, lines 7-11);

creating said pan-focus or blur-controlled image when it is discriminated that it is appropriate to create said pan-focus or blur-controlled image (see spec: page 3, lines 11-13: When distance measurement smaller than depth of field , it is determined not appropriate to create pan focus image); and

forbidding creating said pan-focus or blur-controlled image when it is discriminated that it is not appropriate to create said pan-focus or blur-controlled image (see spec: page 3, lines 11-13: Only one image is taken, so composite image is not made).

In regard to claim 9, Shinichi, JP 10-108057, discloses the image taking apparatus as recited in claim 8, wherein said discriminator discriminates that it is not appropriate to

create said pan-focus or blur-controlled image when a distance distribution of photographic objects of said plurality of image is small (see spec: page 3, lines 11-13: When distance measurement smaller than depth of field or the distance distribution is small, it is determined not appropriate to create pan focus image.)

***Allowable Subject Matter***

4. Claims 3, 4, 10, and 11 are allowed.

In regard to claims 3, 4, 10, and 11 the prior art does not disclose the limitation of a controller which forbids said image sensor to take images when said discriminator discriminates that it is not appropriate to create said pan-focus image.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following art discloses cameras which create blur-corrected composite images:

US 5,172,236 and US 6,320,979.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gevell Selby whose telephone number is 703-305-8623. The examiner can normally be reached on 8:00 A.M. - 5:30 PM (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Christensen can be reached on 703-308-9644. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2615

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gvs

  
TUAN HO  
PRIMARY EXAMINER